
TITLE 329 SOLID WASTE MANAGEMENT BOARD

Proposed Rule
LSA Document #08-212

DIGEST

Adds [329 IAC 3.1-11.5](#) to adopt the Resource Conservation and Recovery Act (RCRA) standardized permit rule at 40 CFR Part 267. Amends [329 IAC 3.1-13-18](#) and [329 IAC 3.1-13-19](#) and adds [329 IAC 3.1-13-21](#) to adopt implementing provisions of the RCRA standardized permit rule. Effective 30 days after filing with the Publisher.

HISTORY

Findings and Determination of the Commissioner Pursuant to [IC 13-14-9-7](#) and Second Notice of Comment Period: April 2, 2008, Indiana Register (DIN: [20080402-IR-329080212FDA](#)).

Notice of First Hearing: April 2, 2008, Indiana Register (DIN: [20080402-IR-329080212PHA](#)).

Date of First Hearing: July 15, 2008.

PUBLIC COMMENTS UNDER [IC 13-14-9-4.5](#)

[IC 13-14-9-4.5](#) states that a board may not adopt a proposed rule under [IC 13-14-9](#) that is substantively different from the draft rule published under [IC 13-14-9-7](#) until the board has conducted a third comment period that is at least 21 days long. Because this proposed rule is not substantively different from the draft rule published on April 2, 2008 (DIN: [20080402-IR-329080212FDA](#)), the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from April 2, 2008, through May 2, 2008, on IDEM's draft rule language. No comments were received during the comment period.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST PUBLIC HEARING

On July 15, 2008, the Solid Waste Management Board conducted the first public hearing/board meeting concerning the development of new rules and amendments to rules at [329 IAC 3.1](#). No comments were received at the first public hearing.

[329 IAC 3.1-11.5](#); [329 IAC 3.1-13-18](#); [329 IAC 3.1-13-19](#); [329 IAC 3.1-13-21](#)

SECTION 1. [329 IAC 3.1-11.5](#) IS ADDED TO READ AS FOLLOWS:

Rule 11.5. Standards for Owners and Operators of Hazardous Waste Facilities Operating under a Standardized Permit (40 CFR 267)

[329 IAC 3.1-11.5-1](#) Adoption of federal standards for owners and operators of hazardous waste facilities operating under a standardized permit

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-22-2](#); 40 CFR 267

Sec. 1. Except as provided otherwise in section 2 of this rule, 40 CFR 267 is incorporated by reference.
(Solid Waste Management Board; [329 IAC 3.1-11.5-1](#))

[329 IAC 3.1-11.5-2](#) Exceptions and additions to 40 CFR 267

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-14-10](#); [IC 13-22-2](#); [IC 13-22-4-3.1](#); [IC 13-30-3](#); 40 CFR 267

Sec. 2. Exceptions and additions to federal standards for owners and operators of hazardous waste facilities operating under a standardized permit are as follows:

(1) In 40 CFR 267.3, dealing with imminent hazard action, delete "section 7003 of RCRA" and insert "[IC](#)

[13-30-3](#) and [IC 13-14-10](#)".

(2) Reports to the state required at 40 CFR 267.56 must be communicated immediately to the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, MC 66-30, Indianapolis, Indiana 46204-2251, (317) 233-7745, or (888) 233-7745 (toll free in Indiana).

(3) In addition to the report of a release, fire, or explosion from the facility required by 40 CFR 267.56(c), the permittee shall comply with all requirements for spill reporting contained in the rules of the water pollution control board at [327 IAC 2-6.1](#).

(4) In 40 CFR 267.75(a), dealing with the biennial report, delete "EPA form 8700-13B" and insert "a form provided by the commissioner".

(5) In addition to the requirements in 40 CFR 267, Subpart E, copies of the reports required by [IC 13-22-4-3.1](#) must be kept on file for at least three (3) years after submission to the department.

(6) Delete 40 CFR 267, Subpart H dealing with financial requirements and substitute [329 IAC 3.1-15](#).

(7) The exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J, found in [329 IAC 3.1-9-3](#), also apply to tank systems under 40 CFR 267, Subpart J if the tank systems were permitted under 40 CFR 264, Subpart J before the effective date of this rule.

(Solid Waste Management Board; [329 IAC 3.1-11.5-2](#))

SECTION 2. [329 IAC 3.1-13-18](#) IS AMENDED TO READ AS FOLLOWS:

[329 IAC 3.1-13-18](#) Preapplication public meeting and notice

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-22-2](#); 40 CFR 124.31

Sec. 18. (a) This section applies to the following:

(1) All RCRA Part B applications seeking initial permits for hazardous waste management units over which the department has permit issuance authority.

(2) RCRA Part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations.

(3) Hazardous waste management facilities for which facility owners or operators are seeking coverage under a RCRA standardized permit under 40 CFR 270, Subpart J, including renewal of a standardized permit for such units, where the renewal is proposing a:

(A) significant change in facility operations;

(B) change that is not specifically identified in 40 CFR 270.42; or

(C) change that amends any terms or conditions in the supplemental portion of the standardized permit.

(b) This section does not apply to the following:

(1) **Class 1 and 2** permit modifications under 40 CFR 270.42.

(2) Applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(c) As used in this section, "significant change" means any change that would qualify as a Class 3 permit modification under 40 CFR 270.42.

(d) Prior to the submission of a Part B RCRA permit application for a facility **or the submission of a written notice of intent to be covered by a RCRA standardized permit under 40 CFR 270, Subpart J**, the applicant shall **do the following**:

(1) Hold at least one (1) meeting with the public in order to:

(A) solicit questions and comments from the community and interested parties; and

(B) inform the community and interested parties of proposed hazardous waste management activities. and

(2) Post a sign-in sheet or otherwise provide a voluntary opportunity for attendees and interested parties to provide their names and addresses.

(e) The applicant shall submit the following to the department as a part of the Part B application in accordance with 40 CFR 270.14(b) **or with the written notice of intent to be covered by a RCRA standardized permit under 40 CFR 270, Subpart J**:

- (1) A summary of the meeting.
- (2) The list of attendees and their addresses developed under subsection (d).
- (3) Copies of any written comments or materials submitted at the meeting.

(f) The applicant shall **do the following:**

(1) Provide public notice of the preapplication meeting at least thirty (30) days prior to the meeting. ~~The applicant shall~~

(2) Maintain, and provide to the department upon request, documentation of the public notice required under subsection (g).

(g) The applicant shall provide public notice in all of the following forms:

- (1) A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in subsection (h), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the commissioner shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the commissioner determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.
- (2) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in subsection (h). If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.
- (3) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in subsection (h), at least once on at least one (1) local radio station or television station. The applicant may employ another medium with prior approval of the commissioner.
- (4) A notice to the department. The applicant shall send a copy of the newspaper notice to the department and to the appropriate units of state and local government, in accordance with section 10(c)(1)(F) of this rule.

(h) The notices required under subsection (g) must include the following:

- (1) The date, time, and location of the meeting.
- (2) A brief description of the purpose of the meeting.
- (3) A brief description of the facility and proposed operations, including the address or a map, for example, a sketched or copied street map, of the facility location.
- (4) A statement encouraging people to contact the applicant at least seventy-two (72) hours before the meeting if they need special access to participate in the meeting.
- (5) The name, address, and telephone number of a contact person for the applicant.

(Solid Waste Management Board; [329 IAC 3.1-13-18](#); filed Jan 9, 1997, 4:00 p.m.: 20 IR 1114; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 3. [329 IAC 3.1-13-19](#) IS AMENDED TO READ AS FOLLOWS:

[329 IAC 3.1-13-19](#) Public notice requirements at the application stage

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-22-2](#); **40 CFR 124.32**

Sec. 19. (a) This section applies to the following:

- (1) All RCRA Part B applications seeking initial permits for hazardous waste management units over which the department has permit issuance authority.
- (2) RCRA Part B applications seeking renewal of permits for such units under 40 CFR 270.51.

(b) This section does not apply to the following:

- (1) Permit modifications under 40 CFR 270.42.
- (2) Applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(3) Hazardous waste units for which facility owners or operators are seeking coverage under a RCRA standardized permit issued under 40 CFR 270, Subpart J.

(c) Requirements for notification at application submittal shall be as follows:

(1) The commissioner shall provide public notice as set forth in section 10(c)(1)(D) of this rule, and notice to appropriate units of state and local government as set forth in section 10(c)(1)(F) of this rule, that a Part B permit application has been submitted to the department and is available for review.

(2) The notice shall be published within a reasonable period of time after the application is received by the commissioner. The notice must include the following:

(A) The name and telephone number of the applicant's contact person.

(B) The name and telephone number of the department's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process.

(C) An address to which interested parties can write in order to be put on the applicant's mailing list.

(D) The location where copies of the permit application and any supporting documents can be viewed and copied.

(E) A brief description of the facility and proposed operations, including the address or a map, for example, a sketched or copied street map, of the facility location on the front page of the notice.

(F) The date that the application was submitted.

(d) Concurrent with the notice required under subsection (c), the commissioner must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the department's office.

(Solid Waste Management Board; [329 IAC 3.1-13-19](#); filed Jan 9, 1997, 4:00 p.m.: 20 IR 1115; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 4. [329 IAC 3.1-13-21](#) IS ADDED TO READ AS FOLLOWS:

[329 IAC 3.1-13-21](#) Procedures for RCRA standardized permit

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-22-2](#); 40 CFR 124, Subpart G

Sec. 21. 40 CFR 124, Subpart G, consisting of 40 CFR 124.200 through 40 CFR 124.214, revised as of July 1, 2006, is incorporated by reference.

(Solid Waste Management Board; [329 IAC 3.1-13-21](#))

[Notice of Public Hearing](#)

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